

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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V.W., a minor, by and through his parent	:	
and natural guardian DERECK WILLIAMS,	:	
et al., on behalf of themselves and all others	:	
similarly situated,	:	
	:	
Plaintiffs,	:	16-CV-1150 (DNH) (DEP)
	:	
v.	:	
EUGENE CONWAY, Onondaga County Sheriff,	:	
in his official capacity, et al.	:	
	:	
	:	
Defendants.	:	
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**NOTICE OF MOTION FOR PRELIMINARY INJUNCTION**

PLEASE TAKE NOTICE that on January 27, 2017, the plaintiffs will move this Court at 10 Broad Street, Utica N.Y. 13501 for a preliminary injunction enjoining Eugene Conway, Esteban Gonzalez, and Kevin Brisson (the “Sheriff’s Office defendants”) from using disciplinary isolation for juveniles and requiring them to develop a plan to stop doing so, in consultation with plaintiffs’ attorneys and experts, that must be developed within 30 days of the Court granting a preliminary injunction. The plaintiffs further move that this Court order the defendant Syracuse City School District and the Sheriff’s Office defendants to afford all eligible juveniles who are denied the educational instruction they are entitled to under New York’s laws and regulations with notice and an opportunity to be heard; and to afford juveniles with qualifying disabilities under the Individuals with Disabilities Education Act (“IDEA”) with a free appropriate public education by providing them with their entitled special education services and manifestation determination review mandated by the IDEA. In support of this motion, the plaintiffs submit their memorandum of law; the Declaration of Philip Desgranges, dated December 21, 2016, and all the exhibits annexed thereto; the Supplemental Declaration of Dr. Louis J. Kraus, dated

December 14, 2016, and all the exhibits annexed thereto; the Declaration of Dr. Barry Krisberg, dated December 6, 2016, and all the exhibits annexed thereto; the Declaration of Warden Leander Parker, dated December 14, 2016, and all the exhibits annexed thereto; the Declaration of Michelle Shames, dated December 20, 2016, and all the exhibits annexed thereto; the Declaration of Emily NaPier, dated December 6, 2016, and all the exhibits annexed thereto; and the Declaration of Maria Rafael, dated December 20, 2016, and all the exhibits annexed thereto. An Appendix of Exhibits and Attachments is annexed to this motion.

Dated: December 22, 2016

New York, New York

Respectfully submitted,



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***V.W. v. CONWAY***

**APPENDIX OF EXHIBITS AND ATTACHMENTS**

(Notice of) Motion for Preliminary Injunction

Memorandum of Law

Declaration of Service

Declaration of Plaintiffs' Counsel Philip Desgranges

EXHIBIT A	Declaration of V.W. in Support of Class Certification (redacted)
EXHIBIT B	Declaration of R.C. in Support of Class Certification (redacted)
EXHIBIT C	Declaration of C.I. in Support of Class Certification (redacted)
EXHIBIT D	Declaration of M.R. in Support of Class Certification (redacted)
EXHIBIT E	Declaration of F.K. in Support of Class Certification (redacted)
EXHIBIT F	Declaration of J.P. in Support of Class Certification (redacted)
EXHIBIT G	Supplemental Declaration of C.I. (redacted)
EXHIBIT H	Supplemental Declaration of R.C.
EXHIBIT 1	Memorandum from the Office of Captain J. Barrella regarding R.C. request to appeal AD/Seg, dated September 14, 2016 (redacted)
EXHIBIT 2	R.C. handwritten appeal of hearing sanction (undated) (redacted)
EXHIBIT 3	R.C. cell packet (redacted)
EXHIBIT I	Supplemental Declaration of V.W. in Opposition to Summary Judgment (redacted)
EXHIBIT 1	V.W. cell packet (redacted)
EXHIBIT J	Declaration of D.D. (redacted)
EXHIBIT K	Declaration of C.B.
EXHIBIT L	Declaration of M.S. (redacted)
EXHIBIT M	Declaration of C.C. (redacted)
EXHIBIT N	Declaration of J.S.
EXHIBIT O	Declaration of D.P.
EXHIBIT P	Declaration of J.C.P.
EXHIBIT Q	Declaration of Lorenda Brown
EXHIBIT R	Declaration of Nashieka Lomack (redacted)
EXHIBIT S	Supplemental Declaration of Alissa Quiñones
EXHIBIT T	Sheriff's Office's description of the Custody Department
EXHIBIT U	Onondaga County Justice Center's February 2016 Inmate Handbook
EXHIBIT V	Sheriff's Office's Written Directive Number CUS-023: Inmate Discipline, dated November 8, 2010
EXHIBIT W	Sheriff's Office's Written Directive Number CUS-050: Segregation Housing, dated January 13, 2016
EXHIBIT X	Sheriff's Office's Written Directive Number CUS-041: Educational and Vocational Programs, dated December 4, 2015
EXHIBIT Y	Sheriff's Office's description of the Organizational Chart
EXHIBIT Z	Sheriff's Office's description of Inmate Management

EXHIBIT AA	Incident Report for C.I. (May 18, 2016) and the related Hearing Results for C.I. (June 7, 2016) (redacted)
EXHIBIT AB	Inmate Misbehavior Report / Hearing Notice for J.P. (Aug. 29, 2016) and the related Hearing Results for J.P. (Sept. 19, 2016) (redacted)
EXHIBIT AC	Memorandum of Understanding between the Syracuse City School District and the Onondaga County Sheriff's Office (Aug. 2016)
EXHIBIT AD	<i>Doe v. Hommrich, et al.</i> , 3:16-cv-00799 (AAT), Temporary Restraining Order, ECF No. 9 (M.D. Tenn. April 25, 2016)
EXHIBIT AE	DOJ statement titled: <i>FACT SHEET: Department of Justice Review of Solitary Confinement</i> (Jan. 25, 2016)
EXHIBIT AF	United Nations Convention on the Rights of the Child, Forty-fourth Session, General Comment No. 10, <i>Children's Rights in Juvenile Justice</i> (2007)
EXHIBIT AG	United Nations General Assembly, Seventieth Session, Agenda Item 106, <i>United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)</i> (Dec. 2015)
EXHIBIT AH	Lowenstein Sandler LLP & Lowenstein Center for the Public Interest, <i>51-Jurisdiction Survey of Juvenile Solitary Confinement Rules in Juvenile Justice Systems</i> (Oct. 2015)
EXHIBIT AI	North Carolina Department of Public Safety press release, <i>State Prison System Announces End to Solitary for Inmates Under 18</i> (June 15, 2016)
EXHIBIT AJ	Laist article, "Juvenile Solitary Confinement has been Banned in L.A. County" (May 3, 2016)
EXHIBIT AK	Press Release from NYC Mayor's Office, "De Blasio Administration Ends Use of Punitive Segregation for Adolescent Inmates on Rikers Island" (Dec. 17, 2014)
EXHIBIT AL	American Academy of Child & Adolescent Psychiatry Juvenile Justice Reform Committee report, <i>Solitary Confinement of Juvenile Offenders</i> (April 2012)
EXHIBIT AM	American Medical Association report, <i>AMA Adopts New Policies to Improve Health of Nation at Interim Meeting</i> (Nov. 11, 2014)
EXHIBIT AN	American Public Health Association policy statement, "Solitary Confinement as a Public Health Issue" (July 2014)
EXHIBIT AO	National Commission on Correctional Health Care report, <i>Solitary Confinement (Isolation)</i> (April 2016)
EXHIBIT AP	Incident Report for C.C. (Aug. 3, 2016), the related Inmate Misbehavior Report / Hearing Notice for C.C. (Aug. 3, 2016), and the related Hearing Results for C.C. (Aug. 22, 2016)
EXHIBIT AQ	Letter from Plaintiffs' Counsel Joshua Cotter to Chief Gonzalez, dated November 23, 2015 (redacted)
EXHIBIT AR	Verified Petition and Complaint for <i>T----- S----- v. Conway</i> (with Exhibits A-I) (redacted)
EXHIBIT AS	Appeal of Administrative Segregation Designation from V.W. to Chief Gonzalez (Aug. 31, 2016) (redacted)

EXHIBIT AT	Appeal of Administrative Segregation from J.P. to Chief Gonzalez (Aug. 31, 2016) and a Memorandum from the Office of Captain J. Barrella to J.P. regarding the Appeal of Hearing / Time / Cut Request (Sept. 2, 2016) (redacted)
EXHIBIT AU	Appeal of Disciplinary Hearing Decision from R.C. to Chief Gonzalez (undated) and a Memorandum from the Office of Captain J. Barrella to R.C. regarding the Appeal of AD/Seg (Sept. 14, 2016) (redacted)
EXHIBIT AV	Sheriff's Office's Written Directive Number CUS-051: Mental Health Services, dated June 18, 2014
EXHIBIT AW	NYS article, "Governor Cuomo Announces Dramatic Reform in Use of Special Housing for Inmate Discipline" (Dec. 16, 2015)
EXHIBIT AX	Defendants' Education of Incarcerated Youth Program Plan for the July 1, 2016 – June 30, 2017 School Year

Supplemental Declaration of Expert Dr. Louis Kraus

EXHIBIT 1	Declaration of Dr. Louis Kraus in Support of Class Certification Motion (with Exhibits A-G)
EXHIBIT 2	List of documents reviewed
EXHIBIT 3	Joint Commission Standards on Restraint and Seclusion / Nonviolent Crisis Intervention Training Program
EXHIBIT 4	Behavioral health records of R.C. (redacted)
EXHIBIT 5	Behavioral health records of M.R. (redacted)

Declaration of Expert Dr. Barry Krisberg

EXHIBIT A	Resume of Dr. Barry Krisberg
EXHIBIT B	List of documents reviewed
EXHIBIT C	List of relevant literature and research
EXHIBIT D	Ohio Department of Youth Services Announcement
EXHIBIT E	Study of Santa Clara County Probation Department reforms
EXHIBIT F	Contra Costa County Juvenile Hall Behavior Management System
EXHIBIT G	Photos of the Justice Center SHU
EXHIBIT H	Photos of the Justice Center SHU cells
EXHIBIT I	Photos of the Justice Center SHU recreation cages
EXHIBIT J	Photos of the Justice Center juvenile pods

Declaration of Expert Warden Leander Parker

EXHIBIT A	Resume of Warden Leander Parker
EXHIBIT B	List of documents reviewed

Supplemental Declaration of Michelle Shames

EXHIBIT A	Admissions and discharge data (redacted)
EXHIBIT B	Table 1: Likelihood of Spending Time in Solitary by Length of Stay in Custody at the Justice Center, October 19, 2015 to October 19, 2016
EXHIBIT C	Table 2: Number of Juveniles by Total Number of Days of Solitary Imposed, October 19, 2015 to October 19, 2016; Figure 2: Bar Graph of Table 2; Table 3: Number of Juveniles by Total Number of Days of Solitary Served, October 19, 2015 to October 19, 2016; and Figure 3: Bar Graph of Table 3

EXHIBIT D Figure 4: Number of Incidents per Month Receiving Solitary Sanctions, October 19, 2015 to October 19, 2016 and Figure 5: Number of Unique Juveniles per Month Who Received Solitary Sanctions, October 19, 2015 to October 19, 2016

Supplemental Declaration of Emily NaPier

EXHIBIT A Email correspondence between ACTS and Chief Gonzalez  
EXHIBIT B Data on disciplinary sanctions and violations for juveniles at the Justice Center from October 2015 to March 2016 (redacted)  
EXHIBIT C Data on disciplinary sanctions and violations for juveniles at the Justice Center for the month of May 2016 (redacted)  
EXHIBIT D Data on disciplinary sanctions and violations for juveniles at the Justice Center for the month of June 2016 (redacted)  
EXHIBIT E Data on disciplinary sanctions and violations for juveniles at the Justice Center for the month of July 2016 (redacted)  
EXHIBIT F Data on disciplinary sanctions and violations for juveniles at the Justice Center for the month of August 2016 (redacted)  
EXHIBIT G Data on disciplinary sanctions and violations for juveniles at the Justice Center for the month of April 2016 (redacted)  
EXHIBIT H Data on disciplinary sanctions and violations for juveniles at the Justice Center for the month of September 2016 (redacted)  
EXHIBIT I Data on disciplinary sanctions and violations for juveniles at the Justice Center for the month of October 2016 (redacted)  
EXHIBIT J Data on disciplinary sanctions and violations for juveniles at the Justice Center for the month of November 2016 (redacted)

Declaration of Maria Rafael

EXHIBIT A Spreadsheets with summary of disciplinary records for the months of November 2016 and December 2016 (redacted)